

Radio Call-In, "Shock Jock," or Open Microphone Programs

FCC Consumer Facts

Background

Consumers often complain to the Federal Communications Commission (FCC) about call-in or open microphone radio programs. What they most often object to is subject matter that is being discussed or the accuracy or fairness of the commentary. Consumers also complain that their calls have been limited or barred by the station or that program hosts are often biased, insufficiently informed and/or discourteous. Many consumers also complain that the nature of the material being broadcast, like radio stunts or "shock jock" programs, is offensive, obscene and/or indecent.

What Are the Broadcasters' Programming Responsibilities?

Neither the FCC nor any other government agency can direct broadcasters to present or refrain from presenting specific programs, or tell them how to conduct their call-in shows and other programs. Broadcasters are responsible for deciding what their stations present to the public.

Broadcasters are expected to be aware of the important local issues in the communities that their stations serve and to offer programming that will inform their audiences about these issues. The selection of issues and the kinds of programming offered are the broadcasters' responsibility. "Call-in" programs are not required to be used as forums for community issues.

Broadcasters are not obligated to give any particular individual an opportunity to participate in a broadcast unless the broadcast involves a candidate for public office.

In general, broadcasters have wide discretion in choosing their programming. The First Amendment to the Constitution and the Communications Act prohibit the FCC from involving itself in the content of specific programs or otherwise engaging in activities that might be regarded as program censorship.

Specifics of the FCC's Rules Governing Obscene, Indecent, and Profane Programming

Congress has given the FCC the responsibility for administratively enforcing the law that governs obscene, indecent, and profane programming. The FCC may revoke a station license, impose a monetary forfeiture, or issue a warning for the broadcast of obscene, indecent, or profane material. The Supreme Court established the definition of obscenity.

Obscene speech is not protected by the First Amendment and cannot be broadcast at any time. To be considered obscene, material must meet a three-prong test:

- An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest;
- The material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and
- The material, taken as a whole, must lack serious literary, artistic, political, scientific value.

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Indecency is defined as “language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.”

Indecent programming contains patently offensive sexual or excretory material that does not rise to the level of obscenity. The courts have held that indecent material is protected by the First Amendment and cannot be banned entirely. Indecent speech is prohibited on broadcast radio and television between 6 a.m. and 10 p.m., when there is reasonable risk that children may be in the audience.

Profane material is defined as “including language so grossly offensive to members of the public who actually hear it as to amount to a nuisance.” Like indecency, profane speech is prohibited on broadcast radio and television between 6 a.m. and 10 p.m.

What If I Have Comments and/or Concerns About a Specific Broadcast?

All comments and/or concerns about a specific broadcast should be directed, in writing, to the stations and networks involved so that the people responsible for making the programming decisions can become better informed about audience opinions.

What If I Have a Complaint about an Obscene or Indecent Program?

Enforcement actions in this area are based on documented complaints received from the public about indecent, obscene, or profane programming. In making indecency determinations, the FCC analyzes what was actually aired during the broadcast, the meaning of what was aired, and the context in which it was aired.

Accordingly, we ask you to provide the following information:

- Information regarding the details of what was actually said or depicted during the allegedly indecent, obscene, or profane broadcast. There is flexibility on how a you may provide this information.

You may describe in detail what was actually said or depicted or submit a full or partial tape or transcript of the material.

In whatever form you decide to provide the information, it must be sufficiently detailed so that the FCC can determine the words or language used or the images or scenes depicted during the broadcast and the context of those words, language, images or scenes.

Subject matter alone is not a determining factor of whether material is obscene, profane or indecent. For example, stating only that the objectionable programming “discussed sex” or had a “disgusting discussion of sex” is not sufficient. Moreover, the FCC must know the context when analyzing whether specific, isolated words or images are indecent or profane. The FCC does not require you to provide tapes or transcripts in support of their complaints. Consequently, failure to provide a tape or transcript of a broadcast, in and of itself, will not lead to automatic dismissal or denial of a complaint.

- The date and time of the broadcast. Under federal law, if the FCC assesses a monetary forfeiture against a broadcast station for violation of a rule, it must specify the date the violation occurred. Accordingly, it is important you provide the date the material in question was broadcast. Indecent or profane speech that is broadcast between the hours of 10 p.m. 6 a.m. is not actionable. Consequently, the FCC must know the time of day that the material was broadcast.

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- The call sign, channel, or frequency of the station involved. To take enforcement action for the airing of prohibited material, the FCC must be able to identify the station that aired the material. By providing the call sign, channel, or frequency, you would help us to quickly and effectively process your complaint.

The FCC may issue a warning, impose a monetary forfeiture, or revoke a station license if it is determined that the material in a radio call-in, open microphone, or "shock-jock" program is obscene, indecent, or profane.

Of necessity, any documentation you provide to the FCC about your complaint becomes part of the FCC's records and may not be returned.

Complaints regarding a specific obscene, indecent, and/or profane broadcast should be directed to:

Federal Communications Commission
Enforcement Bureau
Investigations and Hearing Division
445 12th St., S.W.
Washington, DC 20554

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For this or any other consumer publication in an accessible format (electronic ASCII text, Braille, large print, or audio) please write or call us at the address or phone number below, or send an e-mail to FCC504@fcc.gov.

To receive information on this and other FCC consumer topics through the Commission's electronic subscriber service, click on <http://www.fcc.gov/cgb/contacts/>.

This document is for consumer education purposes only and is not intended to affect any proceeding or cases involving this subject matter or related issues.

10/27/05* - cpb

